

June 18, 2015

TECHNICAL STAFF REPORT

Petition Accepted on May 8, 2015

Hearing Examiner Hearing of July 6, 2015

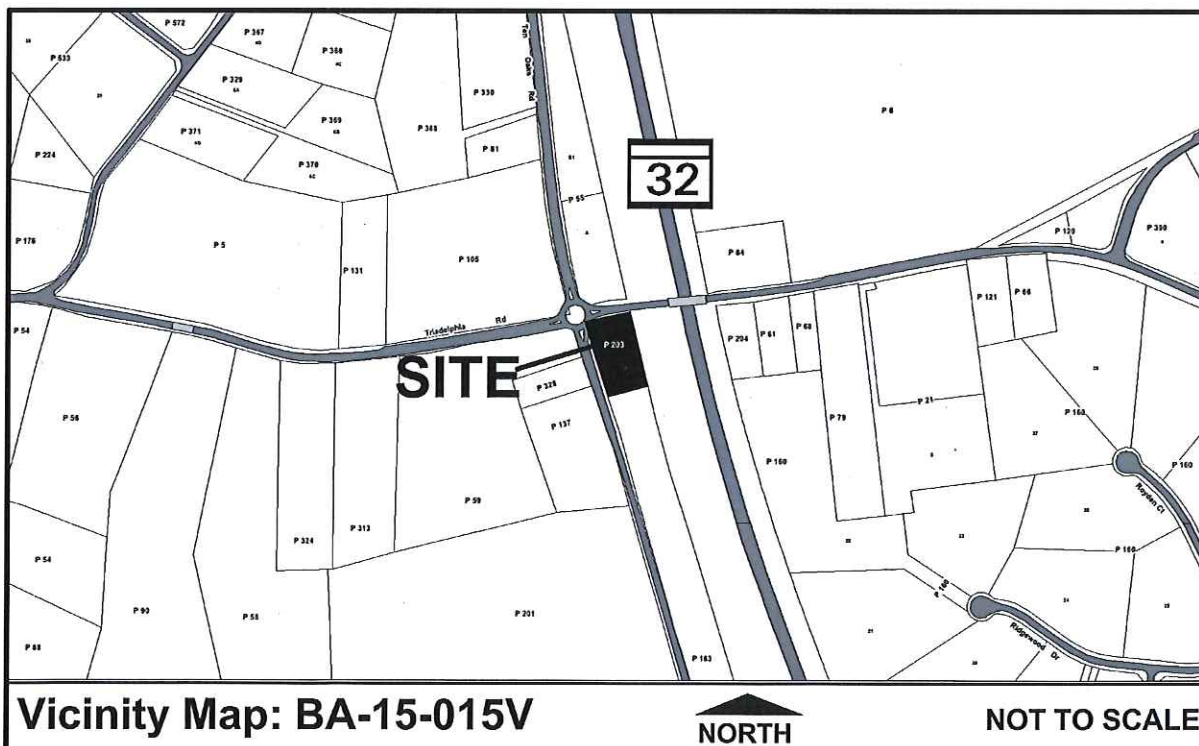
Case No./Petitioner: BA 15-015V Ten Oaks Investors, LLC

Request: Variance to reduce the 30 foot structure and use setback from the public street right-of-way of MD 32 to 10 feet for a building and dumpster enclosure (Section 119.0.D.2.a.)

Location: Fifth Election District
Southeast quadrant of the intersection of Triadelphia and Ten Oaks Roads
Tax Map 22, Grid 14, Parcel 203; 13589 Triadelphia Road (the “Property”)

Area of site: 0.953 acre

Zoning: B-2 (Business: General)

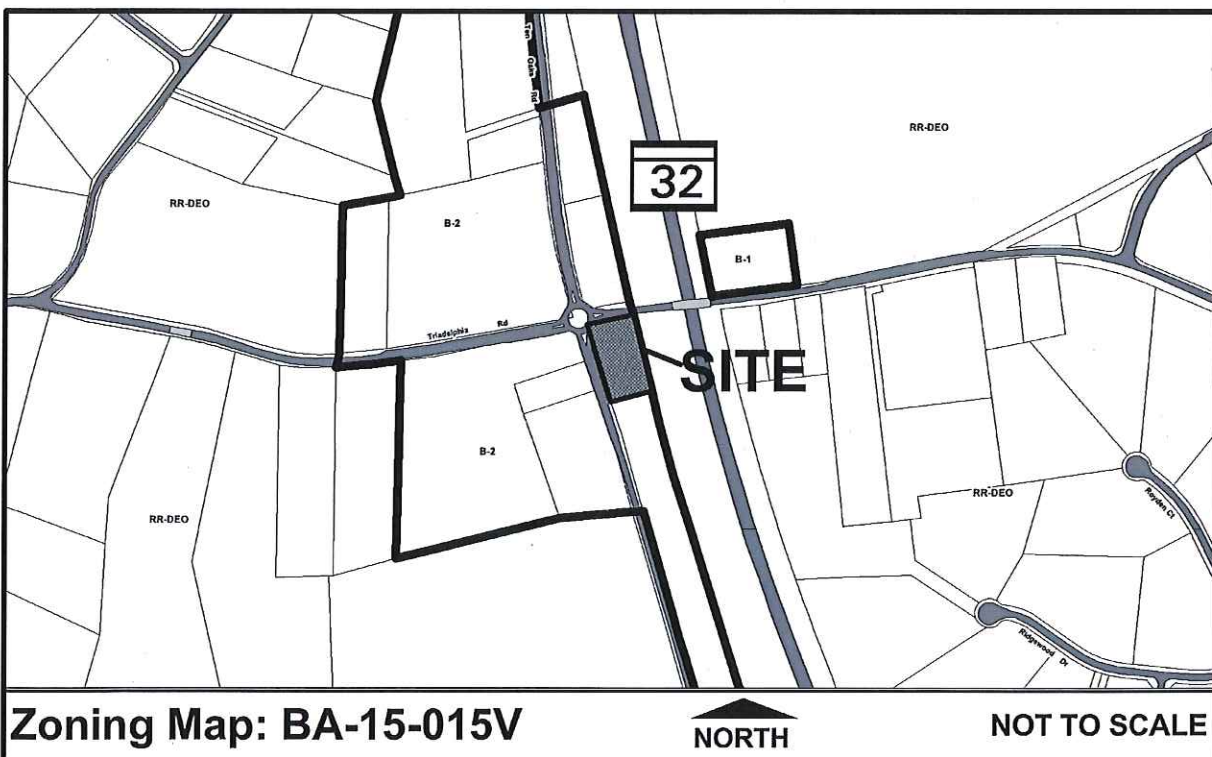


I. VARIANCE PROPOSAL

Under the proposal the existing building on the Property would be demolished and the site will be redeveloped with an approximately 8,530 square foot building which will comprise retail and office space and a carry-out restaurant, according to the submitted Exhibit to Accompany Variance Petition (the "Variance Plan") dated April, 2015.

The Property is bound by Ten Oaks Road on the west, Triadelphia Road on the north and MD 32 on the east. Access will be from Triadelphia Road and from Ten Oaks Road. The proposed building will be located approximately 58 feet from Triadelphia Road and 10 feet from the MD 32 right-of-way. A dumpster and enclosure will also be located 10 feet from the MD 32 right-of-way. The required structure and use setback from this road right-of-way is 30 feet and the Petitioner requests a variance from this setback for an encroachment of the building and dumpster enclosure. The variance request is based on the unique physical condition of narrowness of the lot, an atypical requirement for three, 30 foot setbacks from roads and required locations for certain site improvements.

The remainder of the site would predominately comprise paved parking spaces (41 total spaces) and there would be landscaping along the boundaries of the site. A 10,000 square foot septic field is proposed to be located in the southern portion of the site.



II. BACKGROUND INFORMATION

A. Site Description

The Property is a more or less rectangular-shaped lot bound by Ten Oaks Road on the west, Triadelphia Road on the north and MD 32 on the east and located to the southeast of a traffic circle.

The topography is relatively level across the site but drops downward from the eastern property line toward MD 32. There is a wooded buffer of the State Highway Administration property that lies between the Property and the travel lanes of MD 32.

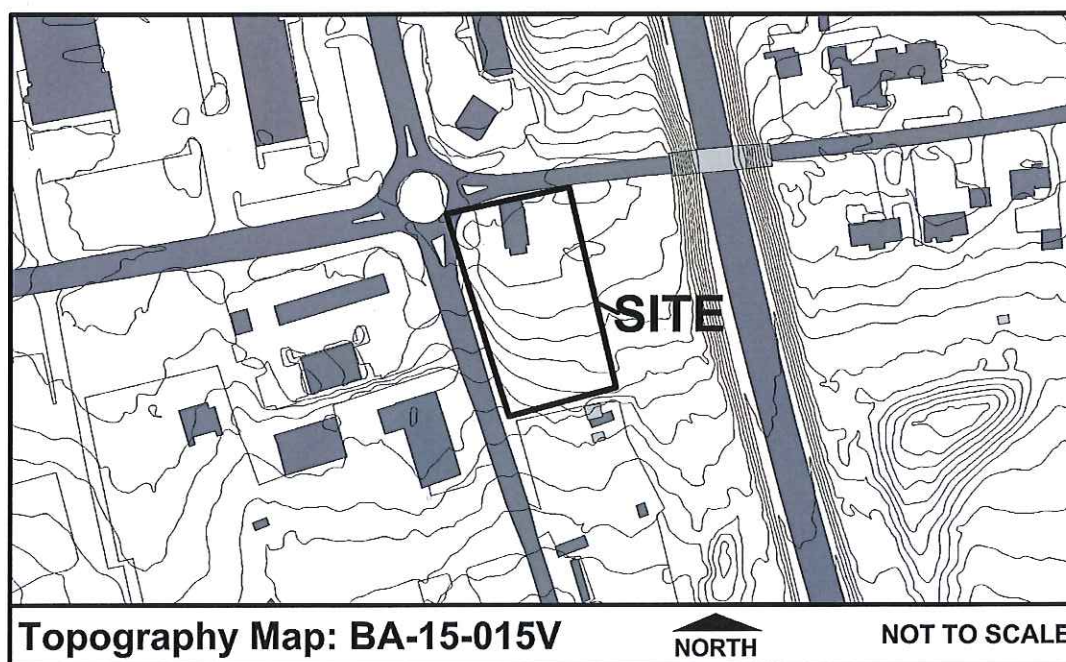
Currently, there is a building located adjacent to Triadelphia Road. It appears this building encroaches into the right-of-way of this road without an approved variance.

B. Vicinal Properties

The RR-DEO zoned right-of-way of MD 32 adjoins the east side of the Property. The portion of this parcel closest to the Property is wooded.

The property to the north across Triadelphia Road is zoned B-2 and is the site of a Royal Farm Store and gasoline service station approved with Board of Appeals Case 96-04E.

The property to the west across Ten Oaks Road is zoned B-2 and is the site of a High's convenience store and gasoline service station approved with Board of Appeals Case 91-50E.



C. Roads

MD 32 has two westbound travel lanes in the vicinity of the Property and a variable right-of-way width. Triadelphia Road and Ten Oaks Road each have two travel lanes and a variable right-of-way width.

Estimated sight distance from the proposed driveway entrance on Triadelphia Road is approximately 120 feet to the traffic circle to the west and more than 500 feet to the east. Estimated sight distance from the proposed driveway entrance on Ten Oaks Road is approximately 190 feet to the traffic circle to the north and more than 500 feet to the south. Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

According to data from the State Highway Administration, the traffic volume on MD 32 south of MD 144 was 27,740 ADT (average daily trips) as of May, 2006. According to data from the Department of Public Works, the traffic volume on Triadelphia Road south of MD 144 was 2,474 ADT (average daily trips) as of March, 1999 and the traffic volume on Ten Oaks Road south of Triadelphia Road was 3,828 ADT (average daily trips) as of January, 2008.

D. Water and Sewer Service

The Property is not within the Metropolitan District and is within the No Planned Service Area of the Howard County Water and Sewerage Master Plan.

The Property will be served by private well and septic facilities.

E. General Plan

The Property is a designated Established Community area on the Designated Place Types Map of PlanHOWARD 2030.

MD 32 is depicted as a Principal Arterial on the Functional Road Classification Map of PlanHOWARD 2030. Ten Oaks Road is depicted as a Major Collector and Triadelphia Road is depicted as a Minor Collector on this same map.

F. Agency Comments

See attached comments on the proposal from the following agency:

1. Bureau of Environmental Health

The following agencies had no objections to the proposal:

1. Department of Recreation and Parks
2. Department of Fire and Rescue Services

Comments were not received from the following agency:

1. State Highway Administration

III. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 130.0.B.2.a of the Zoning Regulations (general criteria for evaluating variances):

1. The Property is situated in an area of land that runs between Ten Oaks Road and MD 32. There are other lots situated between these two roads which appear to be similar to the Property in width and these lots typically have two required 30 foot setbacks. However, due to being adjoined on three sides by roads, the Property is distinguished from other lots in that it has three required 30 foot setbacks, and its proximity to the traffic circle requires any ingress/egress points to be situated a sufficient distance from the traffic circle in order to meet safety standards.

The location of the Triadelphia Road access point would only allow sufficient area for a structure to be located in the southern portion of the lot. However, because the required L-shaped, 10,000 square foot septic area must be located in the southern portion of the site, this would cause a structure to be restricted to the northern portion of the lot which necessitates a variance. The Property is burdened by the noted impacts on the potential site layout which results in limitations as to the placement of ingress/egress points, the necessary location of the septic area, and a diminished building envelope and causes disproportionately substantial impacts to the potential site layout compared to other vicinal commercially zoned properties.

If the Property was not so burdened, the proposed development could likely be constructed without the necessity for a variance. As a result of the noted unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.

2. The proposed building is reasonably sized and the Property is located in an area which is generally zoned for and developed with commercial uses. The reduced setback from the MD 32 right-of-way would not be readily noticeable because it would be more than 100 feet from travel lanes, a steep gradient separates the site from the roadway and a thick stand of woods to the east of the area of encroachment would buffer the visibility of the building and dumpster enclosure.

The reduced setback from the MD 32 right-of-way will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

3. The noted physical constraints of the Property are unique physical conditions which were not created by the Petitioner.
4. If not for the unique physical constraints of the Property, the site improvements could likely be constructed without need of a variance. The requested variance is the minimum necessary to afford relief.

IV. RECOMMENDATION

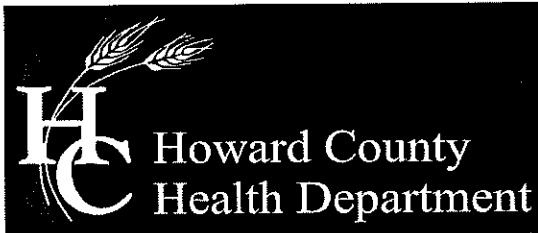
For the reasons stated above, the Department of Planning and Zoning recommends that the requested variance to reduce: the 30 foot structure and use setback from the public street right-of-way of MD 32 to 10 feet for a building and dumpster enclosure be **GRANTED**, subject to the following condition:

1. That the variance shall apply only to the variance depicted on the Variance Plan submitted on May 8, 2015, and as may be revised by the Hearing Examiner and not to any new structures or uses on the Property or to any additions thereto.

 6/22/15
Marsha McLaughlin, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM:ZLK/zlk



Bureau of Environmental Health

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Maura J. Rossman, M.D., Health Officer

MEMORANDUM

TO: Cindy Hamilton
Division of Zoning Administration and Public Service

FROM: Jeff Williams *JW*
Program Supervisor, Well & Septic Program
Bureau of Environmental Health

RE: **BA-15-015C**

DATE: June 11, 2015

The Health Department has reviewed the above referenced petition and has the following comment.

- There is no objection to the variance. However, a percolation certification plan has not been approved for the subject property and the proposed building/use generating the variance request has not been approved by the Health Department at this time.